

HOUSE JOINT RESOLUTION NO. 41

INTRODUCED BY J. ANDERSEN

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THAT THE LEGISLATIVE COUNCIL DESIGNATE AN APPROPRIATE INTERIM COMMITTEE OR ASSIGN SUFFICIENT STAFF RESOURCES TO STUDY THE LAWS GOVERNING SCHOOL BOUNDARY TRANSFERS AND TO MAKE RECOMMENDATIONS TO THE 58TH LEGISLATURE.

WHEREAS, current state law grants County Superintendents of Schools broad discretion to transfer territory from one district to another and to alter school district boundaries; and

WHEREAS, the Montana Supreme Court, in its decision in the case of "In the Petition to Transfer Territory from High School District No. 6, Lame Deer, Rosebud County, Montana, to High School District No. 1, Hardin, Montana" held that because the Legislature had not provided County Superintendents with specific criteria to be weighed when deciding to grant or deny a territory transfer petition, the state's statutes constituted an unconstitutional delegation of legislative power; and

WHEREAS, Senate Bill No. 111 was introduced in the 57th Montana Legislature to restore constitutionality to the territory transfer statutes by providing an objective process for effectuating a transfer of territory; and

WHEREAS, Senate Bill No. 111 was eventually tabled in the House Judiciary Committee; and

WHEREAS, as a result of the Supreme Court decision and the failure of Senate Bill No. 111, school boundary transfers cannot take place until a new law that addresses the constitutional issues is adopted and approved by the Montana Legislature.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to conduct a study of the laws governing the transfer of school district territory from one district to another in order to develop a procedure that addresses the constitutional issues raised by the Montana Supreme Court.

BE IT FURTHER RESOLVED, that the study address the following issues, as well as any other

1 issues considered appropriate:

- 2 (1) the procedure for asking for a transfer of territory;
- 3 (2) the requirements to be met before a transfer can be considered;
- 4 (3) the role of the boards of trustees involved in a territory transfer;
- 5 (4) the role of the County Superintendent in a territory transfer;
- 6 (5) the criteria to be used in deciding if a territory transfer should take place; and
- 7 (6) an appeals process.

8 BE IT FURTHER RESOLVED, that, if the study is assigned to staff, any findings or conclusions be
9 presented to and reviewed by an appropriate committee designated by the Legislative Council.

10 BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review
11 requirements, be concluded prior to September 15, 2002.

12 BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions,
13 comments, or recommendations of the appropriate committee, be reported to the 58th Legislature.

14 - END -